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Report of the Special Rapporteur on the human rights of internally displaced persons

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report detailing the activities of the former Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, during the reporting period and until the end of his tenure on 31 October 2016. In addition, the activities carried out so far by the new Special Rapporteur, Cecilia Jimenez-Damary, who assumed her mandate on 1 November 2016, as well as her methods of work and strategic and thematic priorities, are presented.

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I. Introduction

1. The present report is the first report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary. It is submitted in accordance with Human Rights Council resolution 32/11. The Special Rapporteur was appointed by the Human Rights Council during its thirty-third session and she assumed her mandate on 1 November 2016.

2. The report provides an overview of the activities undertaken by the previous mandate holder, Chaloka Beyani, since his last report to the Human Rights Council in June 2016 (A/HRC/32/35). In the second part, the Special Rapporteur provides a short summary of her activities conducted to date. She outlines her strategic priorities and the working practices that will guide the work of her mandate as well as the thematic issues that will be the focus of her work until 2019.

3. The Special Rapporteur pays tribute to the achievements of her predecessors, who have provided a legacy of essential standards for the protection of internally displaced persons and increased awareness of their plight globally. They have led the development of key standards on the protection of internally displaced persons, have provided valuable resources and recommendations and have helped to inspire new approaches to protection of internally displaced persons. They have demonstrated the necessity of the mandate of the Special Rapporteur, which, with adequate resources and support, will continue to be a voice for internally displaced persons and to advocate effectively for their human rights nationally, regionally and internationally. The Special Rapporteur thanks those States that have supported the mandate and looks forward to continued and wider support from additional countries in all regions.

II. Activities of the former Special Rapporteur

4. In its resolution 32/11, the Human Rights Council mandated the Special Rapporteur to address internal displacement, in particular by mainstreaming the human rights of internally displaced persons into all relevant parts of the United Nations system, working towards strengthening the international response to internal displacement, engaging in coordinated international advocacy and action to improve protection and respect of the human rights of such persons, and continuing and enhancing dialogue with Governments, intergovernmental, regional and non-governmental organizations and other relevant actors.

A. Mainstreaming the human rights of internally displaced persons in the United Nations system

5. The former Special Rapporteur continued to support the mainstreaming of the human rights of internally displaced persons within the United Nations system and the wider humanitarian community. His participation in the Inter-Agency Standing Committee, at the level of the Principals, proved essential in that regard, as it helped ensure and enhance collaborative approaches and strong links with key United Nations agencies as well as other international organizations and civil society.

6. The former Special Rapporteur participated in the World Humanitarian Summit, in Turkey, in May 2016; in the humanitarian affairs segment of the Economic and Social Council, in June 2016; in a high-level round table in Costa Rica, in July 2016, which culminated in a call to action for a comprehensive, multisectoral regional response to address forced displacement in Central America; and in the General Assembly high-level meeting on addressing large movements of refugees and migrants, in September 2016.

B. Cooperation with regional and international organizations

7. The former Special Rapporteur continued his engagement with the African Union to promote ratification and implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). He urged African States that had not yet done so to ratify the Kampala Convention. He emphasized that it was of utmost importance to move to an operational phase, supported by a conference of States parties as required under the Convention, which should adopt a road map for reporting by States and for monitoring implementation. The first Conference of States Parties subsequently took place from 3 to 5 April, in Harare (see para. 43 below). The former Special Rapporteur also debriefed the Council of Europe on his missions to Ukraine, Serbia and Kosovo,[1] and Georgia, in September 2016.

C. Visits conducted under the mandate

Burundi

8. The former Special Rapporteur undertook a working visit to Burundi from 18 to 20 April 2016. He called for the current situation of internally displaced persons to be addressed as a humanitarian issue, and to be delinked from politics, and particularly stressed the importance of ensuring the population's safety, security and freedom of movement. He noted the need to strengthen the humanitarian response to the internal displacement that was occurring due to the ongoing crisis, in order to ensure adequate protection and assistance for internally displaced persons, especially women, children and the elderly. This would also provide an opportunity for addressing the remaining humanitarian needs of persons in protracted internal displacement, notably concerning shelter and access to health care. He stressed the need to apply durable solution approaches for internally displaced persons from the outset of the displacement crisis through protection and assistance response, while increasing efforts towards improving living conditions and promoting durable solutions for persons internally displaced for a protracted period of time as a result of conflict and disasters.

9. He emphasized that the primary responsibility for providing protection and assistance to internally displaced persons lay with the Government, and he therefore encouraged the authorities to adopt the Kampala Convention and establish a legal framework on internal displacement.

Democratic Republic of the Congo

10. The former Special Rapporteur undertook a working visit to the Democratic Republic of the Congo from 21 to 26 April 2016. In light of the decision taken by the provincial government to progressively close all internally displaced persons' camps in North Kivu, the main objective was to promote the orderly conduct of the camp closures, with full respect for international standards including the Kampala Convention, and with a strategic approach aimed at achieving durable solutions. He expressed deep concern at the persistently high levels of violence and of human rights violations, and condemned the targeted attacks against civilians, including internally displaced persons, the widespread sexual violence, the recruitment and use of children by parties to the conflict, and the forced displacement of thousands. He emphasized the need to hold those responsible accountable. Internally displaced persons live in dire conditions, with little access to drinking water or health care, and with food insecurity, and children lack access to education.

11. He recommended to the Government to continue working towards the adoption of a law on internal displacement, and a policy and plan of action for its implementation, with the support of the international community. He also encouraged the authorities to

[1] All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999).

strengthen their efforts to promote the integration of internally displaced persons' needs in development plans and interventions.

El Salvador

12. The former Special Rapporteur conducted a working visit to El Salvador from 11 to 14 August 2016 as part of a regional visit. He noted that ongoing internal displacement in the northern triangle of Central America, due to various causes, including displacement triggered by widespread criminal and gang-related violence, had had a devastating impact on the lives of those affected and required preventive action and measures to protect the rights of internally displaced persons. His visit presented a unique opportunity to start consulting with government representatives and other stakeholders on the challenges involved in providing protection and assistance to internally displaced persons. He welcomed the willingness of the Government to carry out a characterization study on the internally displaced population in El Salvador with a view to developing concrete proposals on how to address internal displacement in El Salvador. The Government of El Salvador subsequently issued an invitation to the current Special Rapporteur to undertake an official country visit in August 2017.

Honduras

13. The former Special Rapporteur conducted a follow-up visit to Honduras from 15 to 17 August 2016. The visit was another opportunity to discuss initiatives to prevent and respond to internal displacement and implement the recommendations of his previous report (A/HRC/32/35/Add.4) following his mission there in November 2015. He commended the Government for the measures taken to establish a legal framework for the protection of internally displaced persons and to criminalize the offence of criminal gang-related displacement, as well as to facilitate protection and assistance for internally displaced persons in the short term based on the recommendations of his report. He encouraged the Government of Honduras to continue working towards the strengthening of such measures, including by ensuring a sufficient budgetary allocation for this purpose.

Mexico

14. The former Special Rapporteur conducted a working visit to Mexico on 18 and 19 August 2016 to start consultations with stakeholders on the challenges with regard to protection and assistance for internally displaced persons. He held discussions with the Senate on opportunities to establish a normative and institutional framework for protection of internally displaced persons, following the recent amendments to the Constitution. He welcomed the willingness of the Government to undertake a study of the various forms of displacement in order to pave the way for concrete measures.

Nigeria

15. The former Special Rapporteur conducted an official visit to Nigeria from 23 to 26 August 2016. The visit focused on the situation in the north-east of the country, affected by the Jama'atu Ahlus-Sunna Lidda'Awati Wal Jihad (Boko Haram) insurgency since 2009. The insurgency and the Government's counter-insurgency have killed thousands of people and have internally displaced nearly 2 million. As areas have been recovered, following offensives, the full extent of the humanitarian crisis has begun to be revealed, with severe malnutrition and food insecurity threatening the lives of many thousands. Ensuring that urgent food, shelter, medical care, water, sanitation systems and other essential services reach internally displaced persons without delay is critical. Ensuring the protection of vulnerable internally displaced persons, many traumatized by violence, must be a paramount concern.

16. Credible evidence of widespread human rights violations means that the situation must also be recognized as a human rights crisis. Internally displaced persons' camps have been targeted by Boko Haram and internally displaced persons have also been killed as a

result of military operations.[2] Sexual exploitation and violence, including demands for transactional sex in order to access both food and non-food items, are commonplace. The risks have been exacerbated by a lack of adequate assistance for internally displaced persons. As well as the abduction of many women and girls by Boko Haram, the whereabouts of thousands of displaced men and boys remains unclear. While many have been killed by Boko Haram or during the counter-insurgency or are held captive by Boko Haram, others are being detained by security forces. They must be treated in accordance with international standards. Measures to identify the dead and missing must be stepped up (see A/HRC/35/27/Add.1).

Ukraine

17. The former Special Rapporteur undertook a follow-up visit to Ukraine from 1 to 9 September 2016. He commended the Government for the progress it had made, which included the adoption of a law on internal displacement and the establishment of the Ministry for Temporarily Occupied Territories and Internally Displaced Persons, but found that more needed to be done to implement the law effectively and to harmonize resolutions passed under its framework, as well as to establish effective coordination mechanisms among ministries of the national Government, regional authorities and municipal authorities. He recommended to the Government to formulate a comprehensive and forward-looking strategy on internally displaced persons that would be geared towards integrating their needs and rights (including in the areas of employment, housing, social assistance, documentation and political participation) into displacement-sensitive policies and programmes, with the ultimate aim of achieving durable solutions for internally displaced persons.

18. A major challenge affecting the welfare of internally displaced persons has been the link between their registration and the payment to them of pensions and social benefits, due to a system based on the verification of places of residence, which has led to suspension of payments affecting about 500,000 internally displaced persons resident in eastern Ukraine. The Special Rapporteur strongly recommended that such payments be delinked from the registration of internally displaced persons. Freedom of movement also remained problematic. At the few checkpoints along the contact line, people queued for hours or even days, at risk to their safety. No special arrangements were made for the elderly, children, pregnant women or persons with disabilities. The Special Rapporteur called on all parties to grant unimpeded access for humanitarian assistance and to allow people to move freely to reach safety, to access services and to exercise their rights.

Serbia and Kosovo

19. The former Special Rapporteur conducted a working visit to Serbia and Kosovo from 11 to 15 September 2016 to follow up on recommendations that he had made in 2013. He urged the intensification of efforts to achieve durable solutions for persons who had been in protracted internal displacement for some 17 years. He emphasized that all durable solution options for internally displaced persons should remain open, and must be delinked from political processes. Many internally displaced persons live in squalid conditions, especially members of the Roma, Ashkali and Egyptian communities, many of whom have specific protection needs and experience challenges in realizing their rights to housing, employment, health care and education. Adequate housing is a key component of durable solutions and should be linked to livelihood opportunities. Other issues of concern to internally displaced persons include illegal occupation of properties, and compensation where properties cannot be recovered.

Georgia

20. The former Special Rapporteur conducted a follow-up visit to Georgia from 24 to 29 September 2016. He commended the positive amendments to the legislation on internal displacement and the new registration exercise for internally displaced persons in 2013 and

[2] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=21100.

2014, but urged the Government to review its approach to internally displaced persons, including those displaced in the early 1990s and in 2008, and to continue its transition from a status-based to a needs-based approach. He emphasized the need to develop a plan for the closure of the remaining "collapsing collective centres" and to increase the Government's efforts to integrate the needs of internally displaced persons into displacement-sensitive national, regional and local development plans and initiatives.

21. The Special Rapporteur encouraged the donor community to continue to fund and support durable solutions, and urged all parties to reach a political solution to enable internally displaced persons who wished to return to their areas of origin to do so voluntarily and in safety and dignity. He regretted that the razor-wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, continued to deprive internally displaced persons and displacement-affected communities of freedom of movement and created obstacles to their access to land, property and livelihoods. In relation to Abkhazia, Georgia, he regretted that he had been denied access by the authorities in control there. He particularly warned against the closure of crossing points along the dividing line and stressed the need to guarantee access to documentation to all returnees in order for them to enjoy their rights, including freedom of movement.

Afghanistan

22. The former Special Rapporteur conducted an official visit to Afghanistan from 11 to 20 October 2016. The internal displacement trends are negative and worsening. In 2016, more than 600,000 people fled conflict to seek safety inside Afghanistan. On average, 1,500 people were forced from their homes every day. An influx of refugees and undocumented Afghans, pushed back from Pakistan, has increased the burden on a government lacking the resources and capacity to respond effectively. With displacement and returns predicted to rise in 2017, further escalation of the conflict and displacement would overwhelm the capacity of the Government and its partners to respond. While the political will to protect internally displaced persons is emerging, government responses do not yet meet the needs of internally displaced persons.

23. The National Policy on Internally Displaced Persons is a commendable policy tool, yet the implementation of it has been poor. Responses to short-term displacement are barely adequate, while those in protracted displacement are commonly left to fend for themselves. While resource shortfalls are blamed by the Government for lack of progress, a deficit of good governance and accountability are contributing factors. In Herat and Mazar-e-Sharif, projects are securing land and providing homes, services and livelihoods, and are demonstrating that progress towards durable solutions is possible. However, they are the exception, and should be replicated throughout the country (see A/HRC/35/27/Add.3).

III. Preliminary activities and a road map for the next three years

A. Working methods

24. The Special Rapporteur considers that internally displaced persons are frequently the least, the last and the lost in terms of national and international attention to their plight. It is a core priority of the mandate holder to promote visibility and effective protection for all internally displaced persons, including those who have become invisible or neglected, the most vulnerable, and those facing the greatest challenges resulting from their displacement. She will therefore take an impact-oriented and human rights-based approach to her work, focusing on building and strengthening constructive partnerships and collaborations with the objective of delivering effective assistance and protection on the ground. Her working methods will build on those established by her predecessors, while also emphasizing the identification of opportunities and entry points to engage directly and constructively with States and other stakeholders in emerging, ongoing and protracted internal displacement situations.

25. The Special Rapporteur will continue to seek and conduct country visits in all regions to gather first-hand information on the situation of internally displaced persons and to engage directly and constructively with national authorities and other stakeholders. She will give high priority to those States with the most critical, challenging and persistent displacement situations, while also seeking visits based on her thematic priorities. She has sent initial requests for visits[3] and encourages States to respond positively. The Special Rapporteur welcomes the positive responses received to date from the Government of El Salvador and the Government of Guatemala for her to conduct visits in 2017 and 2019 respectively. In conformity with the practice of the mandate, she will also conduct working visits[4] and follow-up visits, at the invitation of a variety of stakeholders, including United Nations agencies, to consider internal displacement issues and to engage with a range of actors, including national authorities.

26. The Special Rapporteur will continue and strengthen the existing cooperation established between the mandate and United Nations organizations. She will continue to participate in and actively contribute to the work of the Inter-Agency Standing Committee (IASC) as a Principal, and will work to provide it with guidance and support on the subject of internally displaced persons. To that end, she participated in her first IASC Principals' meeting in Geneva on 6 December 2016, which will be followed by the IASC Principals' retreat scheduled for 28 April 2017. Moreover, she took part in an IASC Working Group meeting held in Rome on 5 and 6 April 2017, in which she provided an update on activities under a joint project between the Special Rapporteur and the Joint IDP Profiling Service[5] and in collaboration with a broad group of development, humanitarian and peacebuilding actors[6] to operationalize the IASC Framework on Durable Solutions for Internally Displaced Persons. The project is aimed at developing tools, methodologies and guidance, for shared and comprehensive yet practical approaches to durable solutions analysis in displacement situations.

27. The Special Rapporteur welcomes the support provided to her mandate by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Equally, in the conduct of her activities and country visits, she will continue to collaborate closely and systematically with United Nations country teams, and to work closely with the Office for the Coordination of Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees (UNHCR). The collaboration between the mandate and these key United Nations entities has proved highly effective, notably in the context of country visits undertaken, during which they have provided invaluable support, assistance, and information. The Special Rapporteur thanks them for their continuing support for her work and looks forward to continuing and strengthening this collaboration.

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[3] To date, country visits have been requested to Bangladesh, Colombia, El Salvador, Guatemala, Haiti, Malawi, Mexico and Nepal.

[4] Such working visits will not normally trigger a report to the Human Rights Council unless this is explicitly agreed to by the State concerned.

[5] The Joint IDP Profiling Service is an inter-agency service that was set up in 2009. Based in Geneva, its mission is to support governments and humanitarian and development actors in designing and implementing collaborative profiling exercises. Working primarily in situations of internal displacement, the Service seeks to promote a culture of evidence-based decision-making in displacement situations. Provided both on-site and remotely, the Joint IDP Profiling Service tailors its support to needs on the ground and enhances in-country profiling capacity-building to generate locally owned, impactful and agreed-upon data. To learn more about the Service and its work, visit www.jips.org/en/home.

[6] The Technical Steering Committee, comprising a broad group of partners that support durable solutions to displacement. Its members include the Danish Refugee Council, the International Committee of the Red Cross, the Internal Displacement Monitoring Centre, the International Organization for Migration, Feinstein International Center/Tufts, the Norwegian Refugee Council, the United Nations Peacebuilding Fund, members of the Solutions Alliance Research, Data and Performance Management Group, the United Nations Development Programme, the United Nations Human Settlements Programme (UN-Habitat) the Office for the Coordination of Humanitarian Affairs, UNHCR, the World Bank, Displacement Solutions Platform and the Regional Durable Solutions Secretariat.

28. In view of her strategic and thematic priorities, the Special Rapporteur has also begun to significantly strengthen cooperation and institutional relationships with the United Nations Development Programme, the International Organization for Migration and the United Nations Children's Fund (UNICEF), among others. In addition to conducting bilateral meetings with these entities, she is investigating practical measures for them to institutionalize their cooperation with the mandate, including through the establishment of focal points in such organizations relating to specific areas of collaboration. Furthermore, the Special Rapporteur will expand her collaboration with national human rights institutions, with a view to identifying positive practices in their work relating to internally displaced persons (see section IV. D. below).

29. Collaboration with civil society organizations, at the international and national levels, has been instrumental in the work of this mandate and the Special Rapporteur will continue and enhance her engagement with civil society organizations working on protection of internally displaced persons. Furthermore, the Special Rapporteur will put particular emphasis on consultations with internally displaced persons and displacement-affected communities and, where they exist, with internally displaced persons' organizations or associations, which remain key counterparts for the mandate in order to ensure that their voices and perspectives are better reflected in all relevant forums. She will seek to increase the presence and role of internally displaced persons, including women, in national, regional and international forums to ensure that their unique experiences and perspectives come to the fore.

B. Strategic priorities and initial activities

30. Since taking up her duties on 1 November 2016, the Special Rapporteur has undertaken a series of bilateral consultations with key stakeholders in order to shape her strategic priorities. This process of consultation culminated on 25 January 2017 with a stakeholder meeting in Geneva for the Special Rapporteur to present and receive feedback on her initial strategic priorities and on the main thematic priorities for her work over the next three years. She was honoured to have her predecessors, Chaloka Beyani and Walter Kälin, on the panel, and attendance by over 35 participants from Member States, United Nations agencies and civil society, who provided their perspectives, views and recommendations. Following the event, on 21 February 2017, the Special Rapporteur had occasion to present her strategic and thematic priorities to a broader, online audience of close to 300 persons worldwide through a web course hosted by Professionals in Humanitarian Action and Protection.[7]

31. Enhanced international attention has been given to large movements of refugees and migrants, including in the context of the United Nations Summit for Refugees and Migrants, held in New York on 19 September 2016, and of subsequent processes under way to adopt global compacts on safe, orderly and regular migration and on refugees by September 2018. The Special Rapporteur urges the international community to ensure that it maintains much-needed attention on the situation of internally displaced persons, recognizing that many who have crossed international borders as refugees or undocumented or trafficked migrants have initially been internally displaced in their own countries and have not been provided with the necessary protection and support allowing them to remain in their own countries if they so wish.[8]

32. While internally displaced persons have the right to cross international borders and the right to seek asylum in other countries, both of which must be guaranteed, responding to their protection and assistance needs within their countries, supporting durable solutions for them and addressing the overall root causes of their displacement remains fundamental.

[7] See https://phap.org/civicrm/event/info?id=393.

[8] Following the summit, the former Special Rapporteur joined a number of United Nations and non-governmental organizations in writing an open letter to Member States urging them to do more to support internally displaced persons and the communities that host them.

Indeed, the New York Declaration for Refugees and Migrants points to links between internal displacement and large movements of migrants and refugees:

> We recognize the very large number of people who are displaced within national borders and the possibility that such persons might seek protection and assistance in other countries as refugees or migrants. We note the need for reflection on effective strategies to ensure adequate protection and assistance for internally displaced persons and to prevent and reduce such displacement.[9]

33. At the same time, the Special Rapporteur points out that the primary responsibility for protecting populations of internally displaced persons within national State boundaries remains with the respective States. While on the one hand, a good number of these internally displaced persons may be able to cross borders, as pointed out above, a good number remain in the territory of their respective States. The Special Rapporteur is of the strong view that political will and resources must be ensured for protection of the human rights of internally displaced persons, whether or not they would potentially cross international borders.

34. The Special Rapporteur favours continuity in the core strategic work of the mandate on achieving the most important global objectives for the protection of internally displaced persons, and giving necessary attention to the most critical displacement situations and the most vulnerable groups or sectors. In this regard, she will continue activities under her mandate to engage with countries experiencing urgent conflict-induced displacement. In her first visit to the Middle East, the Special Rapporteur participated in the international conference on human rights-based approaches to conflict situations in the Arab region, which was held on 20 and 21 February 2017 in Doha and was hosted by the National Human Rights Committee of Qatar and OHCHR, where she interacted with States and non-governmental organizations (NGOs) from the region.

35. The Special Rapporteur will continue to engage in global and regional initiatives and processes to identify, raise awareness of and concretely address the impact of slow-onset disasters and climate change and its implications on internal displacement. The Special Rapporteur considers that more attention needs to be given to this evolving issue, particularly to the links between climate change and internal displacement, and their implications in relation to human security and conflict.

36. During his tenure, the former Special Rapporteur focused on durable solutions as an essential pillar of the responses to internal displacement from the very onset of displacement. As durable solutions remain elusive and many internally displaced persons globally still live in protracted displacement, the Special Rapporteur is convinced that durable solutions must remain high on the agenda if all stakeholders are to address internal displacement in a comprehensive way. Promoting durable solutions for internally displaced persons will continue to be a primary focus of the work of the mandate, and new initiatives towards this goal will include focused thematic attention to strengthening the participation of internally displaced persons in decisions affecting them, and to ensuring that internally displaced persons are included fully in transitional justice, the restoration of housing, land and property, and peacebuilding processes, which are essential components of durable solutions.

37. The Special Rapporteur will continue to lead an inter-agency project on measuring progress towards durable solutions for internally displaced persons, which is implemented by the Joint IDP Profiling Service in collaboration with a broad group of development, humanitarian and peacebuilding actors. The project is aimed at operationalizing the Framework on Durable Solutions for Internally Displaced Persons[10] by developing a library of indicators, tools, methodologies and guidance, for shared and comprehensive yet practical approaches to durable solutions analysis in displacement situations.

38. The goal of reducing displacement, in line with the outcomes of the World Humanitarian Summit, in which an ambitious goal was set of halving it by 2030, must be

[9] See General Assembly resolution 71/1, para. 20.

[10] Available from www.unhcr.org/50f94cd49.pdf.

achieved in a manner fully consistent with the Guiding Principles on Internal Displacement and the IASC Framework on Durable Solutions for Internally Displaced Persons and through the achievement of durable solutions. Consistent with the World Humanitarian Summit outcomes, the Special Rapporteur will place a strong emphasis on strengthening the engagement of development actors at the earliest phases of humanitarian and displacement crises, on ensuring the participation of internally displaced persons as partners and on seeking to strengthen the capacity and resources available to local civil society partners.

39. The Special Rapporteur will continue and enhance work carried out under the mandate[11] to ensure that internally displaced persons are not left behind, including in the context of the 2030 Agenda for Sustainable Development and the implementation of the Sustainable Development Goals. While there is no specific target relating to internal displacement, the Special Rapporteur emphasizes that it is incumbent upon States experiencing internal displacement to establish national implementation programmes and plans that recognize that internally displaced persons are among the most vulnerable populations, who have multiple challenges and needs relating to development priorities — including in the areas of education, health, housing, land, livelihoods and poverty.

40. The Special Rapporteur will continue essential work to promote the development and implementation of legal and policy frameworks that are key to addressing internal displacement at all levels. While her predecessors played a leadership role in developing key international, regional and national frameworks, including the Guiding Principles on Internal Displacement and the IASC Framework on Durable Solutions for Internally Displaced Persons, the Special Rapporteur will prioritize implementation and operationalization of these standards, in close collaboration with national governments, regional mechanisms and other relevant stakeholders. She will advocate for standards to be translated into domestic law and policy and will assist States and other organizations through direct engagement, recommendations, awareness-raising and mobilization of support. In line with this, the mandate holder will continue to co-chair, with UNHCR, the Global Protection Cluster's task team on law and policy.

41. Moreover, the Special Rapporteur co-hosted, with UNHCR and the International Institute of Humanitarian Law, the twelfth Course on the Law of Internal Displacement, held from 14 to 18 November 2016 in San Remo, Italy. The San Remo course has proved to be an excellent opportunity to bring together government authorities involved in protection of internally displaced persons and the Special Rapporteur intends to continue the course as the mandate's flagship course.

42. The Special Rapporteur emphasizes that 2018 marks the twentieth anniversary of the Guiding Principles on Internal Displacement and offers an important opportunity to raise awareness of this global standard and of the plight of internally displaced persons in all regions of the world. She will undertake awareness-raising activities and consult with partners to identify activities to mark the anniversary during 2018 at the national, regional and international levels, including side events and other panel discussions organized by the mandate holder in the context of her annual reporting to the Human Rights Council and the General Assembly. She will encourage national-level activities and commitments in States affected by internal displacement, including steps to incorporate the Guiding Principles on Internal Displacement into national law and policy for the protection of the human rights of internally displaced persons.

43. At the regional level, the Kampala Convention, the only legally binding regional standard on internal displacement, was adopted in October 2009. The Special Rapporteur will continue to support the African Union by promoting implementation of the Convention, including through the Conference of States Parties, and attended the historic first meeting of the Conference, held in Harare from 3 to 5 April 2017. She emphasized that its establishment was an essential next step towards promoting and monitoring implementation of the Convention. She will engage closely with African States — those visited by her predecessors, and other States — to initiate and extend dialogue and to offer

[11] See A/HRC/29/34.

technical cooperation to assist them to fulfil commitments under the Convention. She issued a press release in which she noted that States must adopt concrete measures to ensure that this innovative and comprehensive agreement translates into real gains for internally displaced persons.[12] In view of the positive example set by the African Union, she will continue to advocate for regional standards for the protection of internally displaced persons to be adopted in other regions, as relevant.

44. At the national level, the Special Rapporteur has been deeply concerned by challenges experienced on the ground by humanitarian and development partners in the delivery of their essential services and assistance. These include challenges regarding access to persons and communities affected by internal displacement, due to security concerns or restrictions imposed by national governments, as well as by non-State armed groups and similar non-State actors, particularly in conflict situations. These obstacles seriously hamper their ability to provide essential and life-saving support. The Special Rapporteur will support and collaborate with United Nations agencies and bodies to advocate strongly for States to fulfil their obligations under international humanitarian and human rights law and standards to provide free and unfettered access to all communities in need of assistance. In this context, the Special Rapporteur would also like to give due attention to the role of non-State actors.

45. The Special Rapporteur is alarmed by the inadequate levels of funding available for the essential work of humanitarian and development partners and civil society, especially those on the ground. She applauds the international donor community for its essential funding of humanitarian and development responses globally. She urges donors to maintain and expand essential funding, while incorporating the provisions of the Grand Bargain on humanitarian financing, including flexibility of funding to facilitate new approaches to humanitarian crises, and new ways of working to provide greater attention to durable solutions to internal displacement. A shortfall of funding by some national governments to adequately address their internal displacement situations, as well as mismanagement of funds, poor governance and lack of accountability, have, in some cases, created overreliance on the international community, which is unsustainable in the long term.

46. States have the primary responsibility for promoting and protecting the human rights of internally displaced persons. In December 2016, the Special Rapporteur wrote to Member States and requested their responses to a questionnaire. Among its objectives, the questionnaire sought to identify positive practices in the field of legal, policy and institutional frameworks and activities of States to protect and support internally displaced persons; it also sought to obtain information on measures taken to ensure the active participation of internally displaced persons as partners and not simply beneficiaries, in decisions affecting them and assistance measures. The Special Rapporteur sincerely thanks those States that responded[13] and will study the information provided to inform her future work.

IV. Thematic priorities

47. In line with her strategic priorities, the Special Rapporteur will dedicate her next thematic reports to the following thematic issues: (a) strengthening the participation of internally displaced persons in responses to internal displacement; (b) ensuring the inclusion of internally displaced persons in transitional justice mechanisms and peace processes as part of durable solutions; (c) improving the protection of internally displaced children; (d) enhancing the role of national human rights institutions and other relevant human rights actors in the protection of internally displaced persons; and (e) addressing

[12] See www.globalprotectioncluster.org/_assets/files/news_and_publications/press-release-un-expert-welcomes-the-establishment-of-the-conference-of-states-parties.pdf.

[13] As at 5 April 2017, responses had been received from Albania, Armenia, Australia, Azerbaijan, Colombia, El Salvador, Georgia, Guatemala, Iraq, Kuwait, Malta, Mexico, Mauritius, Slovenia, Sweden, Switzerland, Turkey, Ukraine, the United States of America and the Bolivarian Republic of Venezuela.

neglected drivers of displacement, including development projects and generalized violence. In conducting her thematic work she will consult widely, in order to identify particular issues where her mandate can make the most effective contributions while avoiding duplication of the work of other institutions.

A. Strengthening the participation of internally displaced persons

48. The Special Rapporteur is concerned by evidence coming from internal displacement situations in all regions, including that gathered in the context of numerous country visits undertaken by the mandate holders, that minimum standards for consultation with and participation by internally displaced persons are not being achieved in practice. This undermines the enjoyment of human rights by internally displaced persons as well as progress towards the achievement of durable solutions for them. Internally displaced persons have the right to be involved in all decisions affecting them, at all phases of displacement, and, to the extent possible, to decide on the solutions most appropriate to them and to their location, housing and livelihood preferences. Solutions are only durable when they offer internally displaced persons the best possible available outcomes for them.

49. Interaction with internally displaced persons commonly reveals: a lack of information provided to them at all phases of displacement; infrequent engagement by the authorities responsible; an absence of or inadequate mechanisms and processes for consultation and participation; and decision-making processes that fail to take their views, needs and objectives fully into account. Ensuring that internally displaced persons are included from the outset, in the design, planning and implementation of all actions and measures directed towards them, must be at the heart of responses by national governments and by all humanitarian, development and other relevant actors. Participation empowers internally displaced communities, informs them of their rights and is instrumental in the process of community resilience-building and recovery, where it is effective and results-oriented. Moreover, meaningful participation returns essential dignity to communities devastated by displacement, allowing them to be agents in their own recovery rather than only beneficiaries of assistance.

50. Lack of information, of consultation and of meaningful participation, or tokenistic participation, means that recovery efforts are more likely to fail and may not meet the needs or expectations of the internally displaced communities affected. It can result in deeper and more persistent levels of poverty, as internally displaced persons face the challenges of re-establishing normal lives and appropriate livelihoods under conditions that they were not fully involved in shaping. The challenges to ensuring the meaningful participation of internally displaced persons are significant and must be acknowledged to have hampered efforts in some situations. Cultural, social, historical and political factors must all be taken into account when shaping participation programmes. The challenge remains to ensure that inclusive participation of internally displaced persons is systematically applied and effectively managed in all displacement situations.

51. The Special Rapporteur recognizes the excellent work and analysis that has been conducted by others in this field, including as part of the Brookings Institution and University of Bern Project on Internal Displacement, in its 2008 publication entitled *Moving Beyond Rhetoric: Consultation and Participation with Populations Displaced by Conflict or Natural Disasters*.[14] She considers that her mandate can be instrumental in initiating a call for renewed action and a necessary rethinking of approaches to the participation of internally displaced persons, with the aim of improving these in practice in displacement situations. She will produce a thematic report that will consider essential elements of the participation of internally displaced persons, identify barriers, and propose measures to promote inclusive participation by internally displaced persons in decisions affecting them.

[14] See www.brookings.edu/wp-content/uploads/2016/06/10_internal_displacement.pdf.

52. On 25 January 2017, the Special Rapporteur began consultations on this issue by convening an expert discussion on the participation of internally displaced persons, with relevant United Nations and international NGO partners active on this issue. This served to further her understanding of the issues and challenges and allowed her to obtain the views of key partners and consider positive practices. She will continue to seek positive examples from all regions that she can promote for possible use in other displacement situations. Furthermore, the Special Rapporteur recognizes that international advocacy efforts to promote the rights of internally displaced persons benefit from the actual participation of internally displaced persons. However, internally displaced persons are rarely present in such forums, and she will encourage and advocate for their participation in such regional and international events.

B. Ensuring the inclusion of internally displaced persons in transitional justice processes

53. To fully achieve durable solutions for internally displaced persons, they must receive justice for the harm done to them, the human rights violations and the loss of life and property, through processes that go beyond their physical return, local integration or resettlement. The Framework on Durable Solutions for Internally Displaced Persons recognizes that "this may entail the right to reparation, justice, truth and closure for past injustices through transitional justice or other appropriate measures", and that "internally displaced persons who have been victims of violations of international human rights or humanitarian law, including arbitrary displacement, must have full and non-discriminatory access to effective remedies and access to justice, including, where appropriate, access to existing transitional justice mechanisms, reparations and information on the causes of violations".[15]

54. In numerous internal displacement situations, internally displaced persons do not obtain justice or achieve only partial redress or reparations for the human rights violations that they have suffered, including for loss of housing, land or property. A first challenge will be to address the absence of any transitional justice mechanisms in some post-conflict situations, where such mechanisms are essential to achieve redress for internally displaced persons and other affected populations. Even where such mechanisms exist, fully incorporating internally displaced persons' issues is often perceived as complex and costly. Transitional justice processes have traditionally addressed a too narrow range of the serious civil and political rights violations while relatively neglecting internally displaced persons.

55. Truth commissions and criminal prosecution of perpetrators also form key elements of transitional justice. The experience of forced displacement often encompasses massive human rights abuses, prior to, during and in the aftermath of the displacement, the legacy of which continues while persons remain in displacement and even after they have achieved physical return, resettlement or integration elsewhere. Internally displaced persons must be included in community reconciliation and social cohesion projects, which form important elements of peacebuilding initiatives and from which they are frequently excluded. The understanding that internally displaced persons have the right to participate fully in transitional justice mechanisms and peacebuilding processes must be reinforced, as must the responsibility of governments to guarantee their participation and to ensure that transitional justice is achieved for them in practice.

56. The Special Rapporteur recognizes the important work already undertaken, including research and case studies conducted by the International Center for Transitional Justice and the Brookings-LSE Project on Internal Displacement, among other contributions.[16] Equally, international standards, such as the principles on housing and

[15] See www.unhcr.org/50f94cd49.pdf.

[16] The former Special Rapporteur held joint sessions with the truth, justice and reconciliation commissions in Kenya and Côte d'Ivoire to hear testimonies from internally displaced persons during his official missions, in September 2011 and July 2012 respectively.

property restitution for refugees and displaced persons[17] and the related *Handbook on Housing and Property Restitution for Refugees and Displaced Persons*, deliver valuable guidance relating to specific areas of concern. This provides strong foundations for further development, with the objective of operationalizing existing resources and providing technical assistance for their implementation. The Special Rapporteur will collaborate with United Nations bodies and other international organizations, NGOs and national human rights institutions to make progress in this regard.

57. The Special Rapporteur on the human rights of internally displaced persons has sought a strategic collaboration with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. Upon the invitation of the latter, the Special Rapporteur on the human rights of internally displaced persons participated in the OHCHR regional consultations on transitional justice in the Asia-Pacific region, held on 9 and 10 November 2016 in Colombo. She will engage in dialogue with governments undergoing transitional justice and peace processes to promote the inclusion of internally displaced persons and to learn about those governments' experiences, challenges and practices. She will seek to conduct visits to countries relevant to this thematic focus, and to date has issued visit requests to Colombia and Nepal. She will use her mandate to gather positive practices, guidelines and case studies on the issues and will establish a section of her website dedicated to these issues. Her work on this issue will be ongoing, and she will devote a thematic report to the issue.

C. Improving protection of internally displaced children

58. While much attention has been given to internally displaced children by key international humanitarian and development actors, it is evident that their situation and protection remains a considerable concern in displacement situations worldwide. Country visits undertaken by previous mandate holders, and the reports of other organizations, reveal evidence of children facing neglect and human rights violations, including violence and forced recruitment. In too many displacement situations, children are suffering and dying due to the failure of States to respond rapidly and appropriately to their specific needs and due to the lack of capacity and resources for humanitarian actors to fill the protection gaps. The challenges require renewed attention by States and humanitarian partners, with a focus on concrete outcomes, as highlighted at the High Commissioner's Dialogue on Protection Challenges, in 2016, the theme of which was Children on the Move.[18]

59. Children make up the majority of those displaced by conflict and frequently bear the brunt of the suffering it causes. The United Nations has emphasized that over 30 million children are displaced by conflict.[19] The term "lost generation" often applies, appropriately, to children whose lives are devastated by conflict and displacement. Their futures and opportunities are too often stunted, either by injury, trauma or malnutrition, or by the abuse and violations inflicted by combatants, traffickers or other perpetrators who have the power to abuse them. Their futures are also damaged by their exclusion from education for months or years on end, or by child labour which robs them of their education and childhoods as they support families in poverty. The challenges are particularly acute for orphans, unaccompanied children, children who are living with disability, injury or trauma, and children who head households due to conflict.

60. Under paragraph 16 (d) of Human Rights Council resolution 32/11, the mandate holder is tasked with giving special consideration to the human rights of internally displaced women and children, and of other groups with special needs, such as older persons, persons with disabilities and severely traumatized individuals, and to their particular assistance, protection and development needs. The Special Rapporteur will therefore dedicate a thematic report to the needs and protection issues facing internally displaced children, with a view to bringing renewed attention to their plight and in order to

[17] See https://2001-2009.state.gov/documents/organization/99774.pdf.
[18] See www.unhcr.org/high-commissioners-dialogue-on-protection-challenges-2016.html.
[19] See https://www.un.org/news/2015/june/30-million-children-displaced-/.

seek innovative approaches, concrete actions, and new commitments to their protection in displacement-affected countries.

61. The Special Rapporteur will promote the international normative framework for the protection of children, and the responsibility of States as the primary duty holders, to protect internally displaced children and address their needs. She will collaborate with key international and national partners, assisting them to strengthen their work, including UNICEF and UNHCR, with which she will seek strategic partnerships on this issue. While excellent resources exist, there must be better awareness of them, and technical assistance to implement them in practice. Positive practices should be identified and applied elsewhere where displaced children are at risk. Initiatives to protect girls, particularly in conflict situations, should also be brought into focus and better deployed, as a matter of urgency.

62. The Special Rapporteur will gather positive practices, guidelines and case studies, and will dedicate a section of her website to these issues in order to share relevant information from a wide range of sources. She will seek collaboration with relevant parts of the United Nations system, and with other international organizations and NGOs as well as national human rights institutions. On the basis of the information received, she will communicate to States issues of concern relating to displaced children and will seek a constructive dialogue with States that is aimed at finding rapid and effective solutions to situations of concern involving displaced children.

D. Enhancing the role of national human rights institutions in the protection of internally displaced persons

63. Human rights violations frequently precede or trigger displacement and occur during or after displacement. As independent human rights bodies and monitors of human rights situations, national human rights institutions have a critical role in protection of internally displaced persons. There are several examples of countries, including Kenya, Mexico, Nigeria, the Philippines, Uganda and Ukraine, whose national human rights institutions have played prominent roles in protection of internally displaced persons. Those roles have included advocacy and awareness-raising, training for officials and others in international human rights and humanitarian law and standards, monitoring of the rights of internally displaced persons, registration of individual complaints and investigation of specific cases so that perpetrators are held accountable. Their role in advocacy for domestic legislation to protect the rights of internally displaced persons should also be mentioned.

64. The Special Rapporteur will strengthen the mandate's engagement with national human rights institutions regarding protection of internally displaced persons, will engage in a systematic way with them and their regional networks to benefit from their experiences, practices and lessons learned, and will seek opportunities to enhance cooperation. She will dedicate one of her thematic reports to elaborating the role of national human rights institutions in the protection of internally displaced persons, and to this end she intends to hold a consultative session with selected national human rights institutions during her tenure to examine their existing and potential roles. In addition, she intends to send a questionnaire to relevant national human rights institutions and to seek to collaborate with the Global Alliance of National Human Rights Institutions in this regard.

E. Increasing the attention to neglected drivers of internal displacement

65. The Special Rapporteur recognizes the mandate's responsibility to raise awareness of — and support action to prevent or address — neglected causes of displacement, and to raise awareness about populations of internally displaced persons who require greater visibility and attention. These drivers include development projects and generalized violence, and may also include complex and interlinked causes, such as the intersection between conflict, development and business interests. The number of people internally displaced by such factors may run to millions worldwide, who do not feature in the annual displacement figures as these commonly reflect only persons who have been internally displaced by conflict and disasters.

66. Other factors also require greater attention, including the role of discrimination on ethnic or religious grounds as a cause of displacement and a factor affecting the responses provided to some internally displaced persons. In this regard, the Special Rapporteur participated as an expert panellist in the ninth Forum on Minority Issues, the theme for which was minorities in situations of humanitarian crises, held in Geneva on 24 and 25 November 2016.[20] She emphasized that ethnic or religious identity could be a factor increasing the vulnerability of some communities to displacement, and she contributed to a series of recommendations.

1. Development-induced displacement

67. The Guiding Principles on Internal Displacement establish that the prohibition of arbitrary displacement includes displacement "in cases of large-scale development projects, which are not justified by compelling and overriding public interests" (principle No. 6). While recognizing the significant benefits that development projects often bring to societies more widely, especially those in less developed countries, questions remain as to the appropriate criteria and parameters to be applied in cases where development could lead to internal displacement. The Special Rapporteur will consult with global and national development actors, including United Nations bodies and agencies, and other stakeholders, with the objective of clarifying the practices employed and the criteria applied at all phases of development processes.

68. While relevant guidelines, including the 2007 basic principles and guidelines on development-based evictions and displacement,[21] provide guidance in addressing the human rights implications of development-linked displacement, further understanding of these issues is required in order to ensure that those at risk of internal displacement and those who are displaced by development are protected in conformity with all relevant international laws and standards. The Special Rapporteur will devote a thematic report to this issue and will elaborate a set of recommendations, as well as promoting the implementation of positive practices and processes that should be applied to development projects.

2. Generalized violence-induced displacement

69. Situations of generalized violence do not constitute conflict but may have a similar impact on those forced to leave their homes. Greater research is required to reveal the full extent of the problem and its impact on individuals, families and communities. As highlighted by the former Special Rapporteur, governments may not acknowledge violence-induced displacement as triggering their obligations to protect the affected persons as internally displaced persons under international law and standards, including the Guiding Principles on Internal Displacement. Equally, those affected may not know or claim their rights to protection as internally displaced persons and may in fact seek anonymity due to threats and the risk of violence, making them hard to identify and reach with assistance.

70. The Special Rapporteur will seek to continue her engagement with countries where generalized violence is the cause of internal displacement. In particular, the Special Rapporteur seeks to continue the mandate's support to Honduras, visited by the former Special Rapporteur in 2015 and 2016, to examine the situation of violence-related internal displacement, and to maintain her support for the Government in its work to protect internally displaced persons, including through the adoption of a law on internally displaced persons. Furthermore, she thanks the Government of El Salvador and the Government of Guatemala for their positive responses to her requests for official visits to those countries, and will conduct an official visit to El Salvador in the second half of 2017 and to Guatemala in 2019.

[20] See www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session9.aspx.

[21] See www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf.

V. Conclusions

71. The picture of internal displacement and the plight of internally displaced persons globally have offered little positive news in recent years. Massive and ongoing conflicts and displacement crises remain unresolved, and some have worsened or become entrenched. New conflicts have emerged and disasters struck, causing internal displacement numbers to rise relentlessly to record levels, which puts new pressure on an already overstretched international system of humanitarian response. Where conflicts have abated, internally displaced persons often do not achieve durable solutions for years after their displacement, if at all. The protracted nature of some conflicts and internal displacement all too often results in protracted humanitarian responses that fail to progress to recovery phases and towards durable solutions for internally displaced persons. In some cases, donor fatigue results in fewer resources being available to address expanding and complex caseloads of internally displaced persons.

72. Indeed, the numbers of internally displaced persons globally are in fact likely to be significantly higher than those publicly stated by the United Nations and other international organizations, which only take into account the available data on conflict-induced and disaster-induced displacement. It is estimated that millions more are displaced annually by other causes and drivers of displacement, including development projects and generalized violence. It must also be recognized that there is a need for greater research and more data on internal displacement as a result of slow-onset disasters and climate change, in order to reveal the current and future internal displacement trends and to better meet these challenges. The Special Rapporteur will continue to raise awareness of these neglected areas of internal displacement concern, as well as to advocate for national and international action to protect the human rights of persons who have been internally displaced as a result of all causes of displacement.

73. Confronted by the reality of record numbers of internally displaced persons, it is vital for the international community to maintain and intensify its generous efforts to meet the needs and protect the rights of internally displaced persons and to begin to reverse the global trends. The vision laid out at the World Humanitarian Summit for new approaches to humanitarian action is welcome and provides a positive direction of travel that stakeholders should adopt. The focus on internally displaced persons is necessary and timely, and a global target to reduce internal displacement by 50 per cent by 2030 in a safe and dignified manner provides an ambitious yet necessary stimulus. Moving from principles to action will be a difficult task ahead in order to meet this goal. This must be achieved in compliance with human rights law and through the implementation of international standards for the protection of internally displaced persons and the achievement of durable solutions.

74. As those with primary responsibility, States affected by internal displacement must recognize and better adhere to their commitments under international human rights and humanitarian law and standards, firstly to prevent internal displacement, and to respond better when displacement occurs. Where possible, shifting the focus back towards the primary responsibility of States at all phases of displacement is necessary and will allow international humanitarian partners to more rapidly move on from protracted humanitarian assistance programmes. This will allow them to focus on new, critical displacement situations in which States are unable to respond effectively, as well to undertake more strategic resilience-building and recovery activities alongside development partners.

75. The work of the mandate of the Special Rapporteur and her engagement with national governments will be stepped up to assist States and other stakeholders in their efforts to meet their obligations towards internally displaced persons. As the international community brings its attention much more to large-scale movements of people across international borders, through the development of global compacts on safe, orderly and regular migration and on refugees, the Special Rapporteur urges enhanced attention to the situation of internally displaced persons, recognizing that

many who have crossed international borders as refugees or undocumented or trafficked migrants have initially been internally displaced in their own countries. Many have not been provided with the necessary protection and support allowing them to remain in their own countries if they so wish.

76. **The Special Rapporteur will continue to address the most critical situations regarding the internal displacement of persons, in all regions, and to promote durable solutions and advocate for the adoption of regional and national normative frameworks. In addition, she will bring new attention to other important internal displacement issues, including: strengthening the participation of internally displaced persons in responses to internal displacement; ensuring the inclusion of internally displaced persons in transitional justice processes; improving the protection of internally displaced children; enhancing the role of national human rights institutions in the protection of internally displaced persons; and providing increased attention to neglected drivers of internal displacement, including development-induced displacement and displacement as a result of generalized violence.**